

SPECIAL EDUCATION ADVISORY PANEL

FORMAL RECOMMENDATION

#9

AND

FOLLOW-UP PROCEDURE

The Advisory Panel makes the following formal recommendation to DESE in the area of Special Education

RECOMMENDATION (6/10/04)

As a legitimate concern of federally set timelines cannot be violated, it is the belief of the SEAP that a review process is necessary to allow an opportunity to reinforce good investigative practices and improve deficiencies if found. Therefore, the review will not have a bearing on the Child Complaint Findings, but is meant as a tool to ensure thoroughness of the Child Complaint investigation process.

The following guidelines/parameters are recommended to be part of this review process.

Guidelines/Parameters for a Child Complaint Review

- The findings of the Child Complaint investigation will include a notice of access to investigate documents.
- Within 30 calendar days, either party may request a review of the investigation.
- If requested, the review must be done.
- The request for review should be in writing but accommodations can be made for those parties where writing may be difficult.
- The request should include specific concerns and alleged deficits which will target the review.
- Both parties and the original investigator will be notified in writing of the review to take place.
- The review will be conducted by someone other than the original investigator (preferably someone outside the Child Complaint unit).
- The review must be completed within 30 calendar days. An extension may be granted with written notice and reason provided in writing to both parties and the original investigator.
- Each party and the original investigator shall be notified in writing of the results of the review with an explanation (detailed preferred) of any findings and notice of access to review documents and testimony.

DESE INITIAL RESPONSE (8/04)

The current child complaint process utilized by the Division of Special Education meets the requirements of IDEA. While there is no appeal process in our child complaint procedures, a parent, who feels the child complaint process did not resolve their issue, could initiate a due process hearing on the same issue, as a child complaint decision is not binding on a due process hearing panel. And a parent is free to pursue due process right from the beginning if they decide they would rather not use the child complaint process.

The Compliance Section has contacted the Consortium for Appropriate Dispute Resolution in Special Education (CADRE) to request information regarding other state's procedures for investigation of child complaints and any review procedures that the state has of their child

complaint decisions. Information gained from this search will be reviewed by the Compliance Section and shared with the SEAP subcommittee.

The Division of Special Education is willing to review recommendations to include alternative language in the child complaint letters, information on the Division website, or the contents of the Parents Guide to better explain the child complaint process to families. Recommendations should be submitted to Pam Williams, Director of the Compliance Section

UPDATES/ACTIONS (8/04)

Item was tabled.

UPDATES/ACTIONS (10/04)

DESE is checking on what procedures other states have and will report at the next panel meeting.

UPDATES/ACTIONS (12/04)

The Division contacted CADRE (technical assistance center funded by OSEP) regarding this question and received responses from six states (Kansas, Virginia, Iowa, Alabama, Mississippi, and Indiana). Three states did not have an independent review process and three states did. Of the states that did, Kansas' process was in addition to the 60 day federal timeline. When an appeal is received in Kansas, a panel of three is selected from their special education staff to conduct a hearing (by phone or in person - preference of the person making the appeal). Another state indicated that they felt that the federal regulations left the appeal procedures up to individual states and that would need to be added to a state's regulations. The additional appeal process does not appear to be a problem with OSEP. Virginia's appeal process is also in addition to the 60 day federal timeline. Virginia uses independent reviewers selected from their hearing officer list (a person cannot be a hearing officer and a reviewer at the same time). Kansas and Virginia interpret the federal regulations to mean that they have to meet the 60 day timelines but that it leaves it up to individual states to develop an appeal process which must be included in their state's regulations. Indiana includes their appeal process within the 60 day federal timeline. The Panel indicated that they would like to have the division pose the question and get a written response from OSEP about going over the 60 day timelines.

UPDATES/ACTIONS (2/05)

Pam Williams reported that OSEP indicated that the federal regulations are silent as to whether an independent review must be completed within the sixty day timeline or if it can exceed the timeline.

Melodie Friedebach indicated that the Division wants to review the child complaint process to determine if the process is working correctly or do changes need to be made. Pam indicated that most states stated that their review procedures were validated and that very few decisions are overturned.

Pam will request from OSEP and will send to the monitoring subcommittee a copy of the previously written policy letter from OSEP regarding this issue. OSEP is indicating that Missouri can implement an independent review process.

Pam indicated the Compliance Section is proposing that, since state regulations are being changed due to the reauthorized IDEA, they conduct a survey of parties involved in the child complaint process (last year and the current year) to get their perspectives. Pam asked the monitoring subcommittee to send her some suggested questions for the survey by the April panel meeting. If the division decides to have an independent review process, it could be added to the State Plan changes that will be made in the spring of 2006.

UPDATES/ACTIONS (4/05)

The Monitoring Subcommittee asked the Division to draft the survey questions and send to them prior to the June meeting.

UPDATES/ACTIONS (6/05)

The Division sent the attached survey to the monitoring subcommittee on June 13, 2005. The subcommittee reviewed the survey and will email suggestions to Debby Parsons. DESE will review and modify the survey based on comments/suggestions. DESE will implement the final survey and forward a copy to the monitoring subcommittee.

UPDATES/ACTIONS (11/05)

DESE began sending out the Child Complaint Satisfaction Survey to those parties receiving child complaint findings during FY 2006.

UPDATES/ACTIONS (2/06)

After reviewing preliminary responses to the Child Complaint Satisfaction Survey, the SEAP is concerned with the low number and the limited range of parent responses. It requests that DESE explore methods of expanding the number and range of parent responses in order to provide a more reliable set of data.

UPDATES/ACTIONS (4/06)

DESE is exploring several options for attempting to obtain responses from individuals who did not return the child complaint or due process surveys:

- Follow-up with a cover letter and another copy of the survey
- Offer the opportunity to respond through other formats such as web reply
- Follow-up by phone survey

DESE staff will summarize quantifiable responses on surveys that have been received to date and calculate the number of surveys sent and received within specified periods of time. This information will also be shared with the SEAP. Based on the number of surveys for which there was no response, it will be determined whether DESE staff will make follow-up phone calls or whether they will contract with someone to conduct phone surveys. It will probably be summer 2006 before it will be possible to begin the phone survey process.

UPDATES/ACTIONS (6/06)

DESE is awaiting final results from survey. When the results are available, they will be compiled and shared with the monitoring subcommittee.

FINAL RESOLUTION (date)